

Message Text

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ACTION JUSE-00

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E.O. 11652: N/A
TAGS: ETRD, CA
SUBJECT: VISIT OF ATTORNEY GENERAL BELL

FOLLOWING IS TEXT OF DOCUMENT AGREED TO AT MEETING
BETWEEN ATTORNEY GENERAL BELL AND CANADIAN MINISTERS:

BEGIN TEXT. TITLE. DRAFT PRINCIPLES FOR GUIDANCE TO
OFFICIALS FOR FOLLOW-UP MEETINGS ON THE EXTRATERRITORIAL
APPLICATION OF ANTITRUST LAWS.

THE INTIMATE INTER-RELATIONS OF THE ECONOMIES OF CANADA
AND THE USA INEVITABLY LEAD TO OCCASIONAL SITUATIONS IN
WHICH THE REGULATION OF ECONOMIC CONDUCT BY ONE GOVERN-
MENT MAY CONFLICT WITH THE INTERESTS OF THE OTHER.

IN APPLYING ITS ANTITRUST LAWS TO CONDUCT WITHIN OR HAVING
A SUBSTANTIAL EFFECT WITHIN ITS TERRITORY OR TO CONDUCT
OF ITS NATIONALS (SEE FOOTNOTE), EACH GOVERNMENT RECOGNIZES
THAT, IN ACCORDANCE WITH PRINCIPLES OF INTERNATIONAL LAW
AND COMITY, IT MUST GIVE SERIOUS CONSIDERATION TO THE
NATIONAL INTERESTS OF THE OTHER IN DETERMINING WHETHER TO
APPLY ITS LAW IN A PARTICULAR CASE.

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TO THIS END A GOVERNMENT, WHEN AWARE A CONTEMPLATED
APPLICATION OF ITS LAW MIGHT AFFECT A SIGNIFICANT NATIONAL
INTEREST OF THE OTHER GOVERNMENT, EXPRESSED IN ITS LAW OR
POLICIES, SHOULD NOTIFY THE OTHER GOVERNMENT IN SUCH A
MANNER AS TO PERMIT IT TO IDENTIFY ANY SUCH INTERESTS,
SHOULD BE PREPARED TO CONSULT WITH IT REGARDING THE

CONTEMPLATED APPLICATION OF LAW, AND SHOULD TAKE INTO ACCOUNT SUCH INTERESTS IN CONDUCTING LEGAL PROCEEDINGS AND IN FASHIONING LEGAL REMEDIES.

THE GOVERNMENTS ALSO RECOGNIZE THAT THEY SHOULD COOPERATE AND ASSIST EACH OTHER IN THE ENFORCEMENT OF THEIR RESPECTIVE ANTITRUST LAWS THROUGH THE EXCHANGE OF AVAILABLE INFORMATION, IN ACCORDANCE WITH PRINCIPLES OF INTERNATIONAL COMITY AND SUBJECT TO COMPLIANCE WITH NATIONAL LAWS AND TO THE ESTABLISHMENT OF ADEQUATE SAFEGUARDS RESPECTING CONFIDENTIALITY.

FURTHERMORE, EACH GOVERNMENT SHOULD INTERPOSE NO BARRIERS TO THE ABILITY OF THE OTHER TO ACQUIRE FROM PRIVATE PERSONS INFORMATION FOR THE PURPOSE OF CARRYING OUT THE APPLICATION OF ITS LAW, SUBJECT ONLY TO A PARAMOUNT NATIONAL INTEREST.

THE GOVERNMENTS RECOGNIZE THAT THEY HAVE A COMMON INTEREST IN CONTROLLING OR ELIMINATING UNAUTHORIZED RESTRICTIVE BUSINESS PRACTICES ADVERSELY AFFECTING INTERNATIONAL TRADE, AND AGREE THAT THEY SHOULD COOPERATE WITH EACH OTHER IN DEALING WITH SUCH RESTRAINTS.

THE GOVERNMENTS WILL UNDERTAKE DISCUSSIONS TO FORMALIZE AND STRENGTHEN ARRANGEMENTS, THROUGH A CONTINUING CONSULTATIVE MECHANISM, FOR IMPLEMENTING THE PRINCIPLES SET OUT ABOVE, AND TO EXPLORE AND, IF APPROPRIATE, ESTABLISH PRINCIPLES OF AND ARRANGEMENTS OR AGREEMENTS LIMITED OFFICIAL USE

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FOR EVEN MORE EXTENSIVE COOPERATION.

(FOOTNOTE: IT WAS RECOGNIZED THAT THERE WAS A NEED TO DISCUSS FURTHER THE APPLICATION OF JURISDICTION BASED ON NATIONALITY TO THE VARIOUS ELEMENTS OF THE MULTI-NATIONAL ENTERPRISE.) UNQUOTE. ENDERS

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